

REMARKS/ARGUMENTS

This response is filed in response to the office action of December 10, 2008 and further in response to the non-compliant amendment notice of April 17, 2009. Applicants have amended the set of claims to clearly cancel claims 2-28, a reference to this cancellation having been omitted in the previous response. Thus Claims 2-28 are canceled. New Claims 29-37 have been added. Claims 1, 29-37 are currently pending.

Restriction Requirement and Double Patenting Rejection

In the office action of December 10, 2008, the Examiner had requested that the Applicant affirm the election of the group of claims made by Ivan Kavrukov in the phone interview of 11/07/08. In addition, the claims were rejected under 35 U.S.C. §101 for double patenting reasons, as the claims were copies of the claims in the issued parent application 6,846,289.

After reviewing the claim, Applicant has determined that the claims were in fact identical to the issued case. In view of the fact that there is additional material in the specification to claim, Applicant has amended the claims to more clearly focus on this additional patentable subject matter. In addition, Applicant has cancelled the identical claims 2-28, and substituted new claims 29-37. In view of this amendment it is requested that the restriction requirement and double patenting rejection be withdrawn.

Conclusion

In light of the above Remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Office should have any questions or other issues to discuss, please do not hesitate to contact the undersigned attorney.

A one month extension was filed with the previous response and it is believed that no fee is due for this replacement response. However, should the Examiner determine that a fee is due the Examiner is hereby authorized to charge the Deposit Account No. 50-2855 for any actual deficiency. The Examiner is also authorized to credit any overpayment to Deposit Account No. 50-2855.

5/4/09

Respectfully submitted,

____/Lindsay G. McGuinness/_____
Lindsay McGuinness Reg. 38,549
Attorney for Applicant
USPTO Customer No. 38732
Hologic Inc.
250 Campus Drive
Marlborough, MA 01752
Tel: 508-263-8504
Fax: 508-263-2859